

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TEMECULA VALLEY UNIFIED
SCHOOL DISTRICT.

OAH Case No. 2015040457

ORDER DISMISSING EXPEDITED
HEARING

On April 7, 2015, Student filed a Request for Due Process Hearing, naming Temecula Valley Unified School District. On April 15, 2015, the Office of Administrative Hearings issued a Scheduling Order and Notice of Expedited and Non-Expedited Due Process Hearing and Mediation. On April 16, 2015, Student and Temecula jointly filed a motion to unexpedite the expedited hearing, which OAH denied on April 17, 2015, because an expedited issue for hearing regarding the dispute as to the September 17, 2014, and September 24, 2014 manifestation determination team meetings.

On April 30, 2015, Student filed a Voluntary Withdrawal of Issue re Manifestation Determination and Request to Dismiss the expedited hearing. OAH received no response to the Request to Dismiss from District.

APPLICABLE LAW

A parent of a child with a disability who disagrees with any decision by a school district regarding a change in educational placement of the child based upon a violation of a code of student conduct, or who disagrees with a manifestation determination made by the district, may request and is entitled to receive an expedited due process hearing. (20 U.S.C. § 1415(k)(3)(A); 34 C.F.R. § 300.532(a) (2006).) An expedited due process hearing before OAH must occur within 20 school days of the date the complaint requesting the hearing is filed. (20 U.S.C. § 1415(k)(4)(B); 34 C.F.R. § 300.532(c)(2) (2006).) The procedural right to an expedited due process hearing is mandatory and does not authorize OAH to make exceptions or grant continuances of expedited matters. (*Ibid.*) In sum, a matter can only be unexpedited or continued if no issue is alleged that is subject to an expedited hearing, or if the student withdraws the issues in the complaint that triggered the expedited hearing.

DISCUSSION

Student has voluntarily withdrawn his Issue Two for the 2014-2015 school year, specifically alleging District “improperly concluded that Student’s behavior was not a manifestation of his disability and continued to suspend him in excess of 10-days during a single year.” An expedited hearing is no longer required, and the matter may proceed on Student’s non-expedited issues.

ORDER

1. Student’s Request to Dismiss is granted as to Issue Two as stated above.
2. All dates set for expedited due process hearing and prehearing conference are vacated.
3. The matter will proceed as scheduled as to the remaining issues, as follows:

Mediation:	May 12, 2015, at 9:30 a.m.
Prehearing Conference:	May 22, 2015, at 1:00 p.m.
Due Process Hearing:	June 2, 2015, at 9:30 a.m., and continuing day to day thereafter, Tuesday through Thursday, as determined by the ALJ.

IT IS SO ORDERED.

DATE: May 1, 2015

/s/
JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings